

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ISAIAH BLANCH,

Plaintiff,

-against-

MICHAEL A. SCHIFF, SHERIFF; ERIC
CHABOTY, UNDERSHERIFF; HAROLD SMITH,
JR., JAIL ADMINISTRATOR; JOE D.P.W., D.P.W.
SENIOR MAINTENANCE; J. GANDULLA,
SENIOR REGISTERED NURSE; JANET
CALANGELO, CORPORAL AND GRIEVANCE
COORDINATOR; GABRIEL, CORPORAL AND
GRIEVANCE COORDINATOR; WAYNE
ALTMAN, SENIOR REGISTERED NURSE; LT.
CHRISTOPHER BINI, LT. & CHIEF
ADMINISTRATOR/GRIEVANCE
COORDINATOR; WENDY MOORE, R.N.; DR.
GOOD, PHYSICIAN; LISA SAUER, NURSE
PRACTITIONER; MARTIN DAVIS R.N.; JACOB
CRAWLEY R.N., *individually and in their official
capacities,*

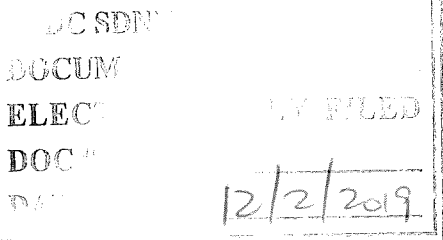
Defendants.

18-CV-838 (NSR)

ORDER

NELSON S. ROMÁN, United States District Judge:

Plaintiff, appearing *pro se*, commenced this action pursuant to 42 U.S.C. § 1983 on January 26, 2018. (ECF No. 1.) On May 2, 2018, Plaintiff filed an Amended Complaint which expanded upon his original allegations. (ECF No. 13.) On June 21, 2018, Plaintiff modified his case again by filing a Second Amended Complaint without leave of Court. (ECF No. 26.) On June 28, 2018, the Court dismissed Plaintiff's Second Amended Complaint without prejudice for failure to seek leave to amend. (ECF No. 29.) The very same day, Plaintiff filed another Second Amended Complaint. (ECF No. 30.) On July 23, 2018, the Court granted Plaintiff leave to file a Second



Amended Complaint, rendering the complaint at ECF No. 30 the operative complaint. (ECF No. 38). On October 3, 2018, the Court issued a *Valentin* order directing the attorney for Defendant Jacob Crawley to ascertain the address where this Defendant may be served, and the attorney responded on October 5, 2018. (ECF Nos. 53, 54.)

After over a year of inactivity from Plaintiff, on September 30, 2019, the Court issued an Order to Show Cause why the case should not be dismissed for want of prosecution. (ECF No. 60.) In response, Plaintiff explained that he had attempted to contact the court several times, including that he had tried to update his address with the court, although no such correspondence has been received. (ECF No. 62, ¶¶ 35–41.) In addition, Plaintiff has attempted to amend his allegations to include an additional defendant, Sullivan County (*Id.* ¶¶ 15–16), and has reiterated/elaborated on factual allegations regarding his existing claims (*Id.* ¶¶ 1–14, 17–34). In consideration of Plaintiff’s *pro se* and incarcerated status, the Court finds that Plaintiff has shown cause and will not dismiss the case for want of prosecution.

Accordingly, it is hereby ORDERED that the September 30, 2019, Order to Show Cause (ECF No. 60) is deemed moot. In light of this, Plaintiff is directed to file a Third Amended Complaint on or before January 3, 2020. The Third Amended Complaint will completely replace, not supplement, the Second Amended Complaint. The Third Amended Complaint must include all of the factual allegations underlying Plaintiff’s claims. Plaintiff is warned that, while leave to amend is to be freely given, “piecemeal pleading” is impermissible. *See, e.g., Zito v. Leasecomm Corp.*, No. 02 CIV.8074 GEL, 2004 WL 2211650, at *26 (S.D.N.Y. Sept. 30, 2004). A Third Amended Civil Rights Complaint Form that Plaintiff should complete is attached to this order. If Plaintiff files an amended complaint, the Clerk of the Court will, if necessary, send instructions to


Plaintiff to effect service on Defendants in accordance with Rule 4 of the Federal Rules of Civil Procedure.

Should Plaintiff fail to timely amend the complaint, the Second Amended Complaint at ECF No. 30 shall be deemed the operative complaint. Defendants are granted leave to file their motion to dismiss, and to serve Plaintiff at the address listed on the docket on or before January 31, 2020. The parties' briefing schedule is as follows: Plaintiff's opposition shall be served, not filed, on or before March 2, 2020. Defendants' reply shall be served on or before March 17, 2020. Defendants are directed to file all motion documents, including Plaintiff's opposition, on March 17, 2020. The parties are reminded that they are to provide the Court with two courtesy copies of each submission on the date they serve that submission on their opponent.

The Clerk of the Court is respectfully directed to mail a copy of this Order to Plaintiff at his address on the docket and show proof of service on the docket.

Dated: December 2, 2019
White Plains, New York

SO ORDERED:



NELSON S. ROMÁN
United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Write the full name of each plaintiff.

-against-

____ CV ____
(Include case number if one has been assigned)

**THIRD AMENDED
COMPLAINT**
(Prisoner)

Do you want a jury trial?
☐ Yes ☐ No

Write the full name of each defendant. If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed above must be identical to those contained in Section IV.

NOTICE

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

I. LEGAL BASIS FOR CLAIM

State below the federal legal basis for your claim, if known. This form is designed primarily for prisoners challenging the constitutionality of their conditions of confinement; those claims are often brought under 42 U.S.C. § 1983 (against state, county, or municipal defendants) or in a "*Bivens*" action (against federal defendants).

☐ Violation of my federal constitutional rights

☐ Other: _____

II. PLAINTIFF INFORMATION

Each plaintiff must provide the following information. Attach additional pages if necessary.

First Name	Middle Initial	Last Name
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State any other names (or different forms of your name) you have ever used, including any name you have used in previously filing a lawsuit.

Prisoner ID # (if you have previously been in another agency's custody, please specify each agency and the ID number (such as your DIN or NYSID) under which you were held)

Current Place of Detention

Institutional Address

County, City	State	Zip Code
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III. PRISONER STATUS

Indicate below whether you are a prisoner or other confined person:

☐ Pretrial detainee

☐ Civilly committed detainee

☐ Immigration detainee

☐ Convicted and sentenced prisoner

☐ Other: _____

IV. DEFENDANT INFORMATION

To the best of your ability, provide the following information for each defendant. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are identical to those listed in the caption. Attach additional pages as necessary.

Defendant 1:

First Name	Last Name	Shield #
Current Job Title (or other identifying information)		
Current Work Address		
County, City	State	Zip Code

Defendant 2:

First Name	Last Name	Shield #
Current Job Title (or other identifying information)		
Current Work Address		
County, City	State	Zip Code

Defendant 3:

First Name	Last Name	Shield #
Current Job Title (or other identifying information)		
Current Work Address		
County, City	State	Zip Code

Defendant 4:

First Name	Last Name	Shield #
Current Job Title (or other identifying information)		
Current Work Address		
County, City	State	Zip Code

V. STATEMENT OF CLAIM

Place(s) of occurrence: _____

Date(s) of occurrence: _____

FACTS:

State here briefly the FACTS that support your case. Describe what happened, how you were harmed, and how each defendant was personally involved in the alleged wrongful actions. Attach additional pages as necessary.

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There is no text or other markings on the paper.

INJURIES:

If you were injured as a result of these actions, describe your injuries and what medical treatment, if any, you required and received.

VI. RELIEF

State briefly what money damages or other relief you want the court to order.

VII. PLAINTIFF'S CERTIFICATION AND WARNINGS

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I understand that if I file three or more cases while I am a prisoner that are dismissed as frivolous, malicious, or for failure to state a claim, I may be denied *in forma pauperis* status in future cases.

I also understand that prisoners must exhaust administrative procedures before filing an action in federal court about prison conditions, 42 U.S.C. § 1997e(a), and that my case may be dismissed if I have not exhausted administrative remedies as required.

I agree to provide the Clerk's Office with any changes to my address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

Dated _____		Plaintiff's Signature _____
First Name _____	Middle Initial _____	Last Name _____
Prison Address _____		
County, City _____	State _____	Zip Code _____
Date on which I am delivering this complaint to prison authorities for mailing: _____		